

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

FIRST INTERNET BANK OF INDIANA,

Plaintiff,

v.

CLAYUDI BARBONI, *et al.*,

Defendants.

Case No. 2:24-cv-01426-RFB-NJK

**ORDER**

This is a breach of contract action between lender First Internet Bank of Indiana (“FIBI”) and Defendants. ECF No. 1. On August 5, 2024, Defendants removed to this Court from the Eighth Judicial District Court in Clark County, Nevada. ECF No. 1. On August 15, 2024, Plaintiff filed the instant Motion to Remand. ECF No. 7. The motion is fully briefed. ECF Nos. 10, 11. For the following reasons, the Court grants the motion in part and denies the motion in part.

A federal district court has original jurisdiction under federal question and diversity jurisdiction. 28 U.S.C. §§ 1331, 1332. When original federal jurisdiction exists but the matter was filed in a state court, the case may be removed under 28 U.S.C. § 1441(b). However, the forum defendant rule “confines removal on the basis of diversity jurisdiction to instances where no defendant is a citizen of the forum state.” Lively v. Wild Oats Mkts., Inc., 456 F.3d 933, 939 (9th Cir. 2006). Where removal was improper, the case may be remanded. 28 U.S.C. § 1447.

There is no dispute that the Petition for Removal is premised solely on § 1332 diversity jurisdiction and that both Defendants are Nevada citizens. “The need for” the protection of diversity jurisdiction “is absent . . . in cases where the defendant is a citizen of the state in which the case is brought” and remand is appropriate. See Lively, 456 F.3d at 940. The Court finds that the Forum Defendant rule applies. § 1441(b)(2).

